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Good Intent; Bad Result

The Central Intelligence Agency appears to have won its battle to get a law on the books to prevent the public disclosure of the names of its covert agents. With the support of the Reagan administration, the House and Senate are near agreement on legislation making it a criminal offense to blow the cover of a U.S. intelligence agent or informant.

The systematic disclosure of the identity of agents by former CIA employee Philip Agee and others has done so much damage that President Reagan may welcome the arrival on his desk of the "Intelligence Identities Protection Act."

If he signs it, however, he should not be surprised to see it collapse in the face of a constitutional challenge. For all its good intentions, the act is a bad piece of legislation.

Every government wants to protect the identity of its covert agents, not only to preserve the security and effectiveness of intelligence operations but for the personal safety of the agents. One CIA agent was shot to death in Athens after his identity was revealed in a Greek newspaper.

Since 1975 the names of hundreds of CIA agents and contacts have been laid bare, mainly by Agee and by Louis Wolf, publish-

er of a Washington newsletter called the *Covert Action Information Bulletin*. In spite of the crippling effect on CIA operations, the government has been powerless to prevent the publication of such information.

The bill emerging from Congress fails to overcome a basic problem — how to deal with the intentionally traitorous conduct of "naming names" of intelligence agents without violating the rights of free speech and freedom of the press protected by the First Amendment. The law being enacted could be used to punish those who reveal the identity of an intelligence source for innocent or even constructive reasons.

It is conceivable that if the law had been in effect the CIA could have squelched the investigation of an international stolen car ring which involved a high Mexican police official who also happened to be an intelligence source for the CIA. As it was, U.S. Attorney William Kennedy of San Diego lost his job for confirming the identity of the official to a San Diego Union reporter who already knew the story.

What would have been gained if the law had made Mr. Kennedy and reporter Jon Standefer liable to criminal prosecution? Some protection against an embarrass-

ment to Mexico and the CIA — at the expense of an unreasonable restraint on law enforcement and the reporting of news the public deserves to know.

The new legislation threatens a \$15,000 fine or three years imprisonment or both for anyone who carries out a "pattern of activities" intended to identify agents and who has "reason to believe" that disclosing their identity will be harmful to the foreign intelligence activities of the United States. Authors of the bill say this language would narrow the target to those who intentionally try to sabotage intelligence work by naming names — the Agees and the Wolfs.

However, we fail to see how the law could fail to catch innocent journalists in its net — an opinion shared by the American Civil Liberties Union, the Society of Professional Journalists and other organizations sensitive to encroachments on freedom of the press.

The First Amendment says Congress shall make no law abridging freedom of speech and freedom of the press. Congress has tried to treat a problem of undeniable gravity with its "Intelligence Identities Protection Act," but we doubt if any court will fail to see its contradiction with the First Amendment.